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THE BUDGETARY PROVISIONS OF THE NEW YORK CONSTITUTION

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It may be truly said that the New York Constitutional Convention of 1915 marks a new epoch in the history of budgetary procedure in the United States. The general subject of financial administration has, of course, received serious consideration at various times and places, and public attention has occasionally been aroused by particular fiscal scandals such as those which were attacked by Governor Tilden of this state more than a generation ago. Sometimes, also, a constitutional convention has bestowed a passing glance upon the fiscal problem while wrestling with the mighty matter of the separation of powers; but never before has the whole question of financial administration in all its ramifications and in all of its implications received a thoroughgoing and systematic consideration at the hands of a constituent assembly. Never before has there been a responsible citizens' agency, like the Bureau of Municipal Research in the city of New York, equipped with a staff of men trained in finance, accounting and administration and prepared to make for a convention long and searching investigations into all of the intricacies involved in budget procedure. In other words, the conditions surrounding the formation of the New York constitution of 1915 were such as to guarantee a more thoughtful review of finances than ever before in the history of state constitution-making in the United States.

Those who are familiar with European budget practice, who have read their Lowell, Stourm and Duguit, know very well that the budget is no simple matter of bookkeeping—that as Gladstone said—"budgets are not merely affairs of arithmetic, but in a thousand ways go to the root of prosperity of individuals, the relation of classes, and the strength of kingdoms." The budget is the very heart of the governing process; it involves fundamental problems in administrative organization, in public policy, in legis-

lative responsibility, and in political leadership. Sound budgetary procedure cannot be injected into the hopelessly disorganized governments of American commonwealths. It requires a thorough-going reconstruction, even of the very elemental parts of the government framework.

It was in recognition of this fact that the Bureau of Municipal Research in preparing to make recommendations to the New York Constitutional Convention not only took into consideration the problems of appropriations, debt, sinking fund, deficits, and taxation, but also began at the same time the most painstaking and minute study of administrative structure that has ever been made in this country. This administrative study was undertaken in connection with the state Department of Efficiency and Economy and resulted in the publication of a truly monumental description of the organization and functions of the New York government. This volume, which was prepared for the state Constitutional Convention Commission, was issued early in 1915.¹ After its publication, the Bureau of Municipal Research prepared a critical "appraisal" of the system from the point of view of efficiency, economy, responsiveness and responsibility in government. In this second work the Bureau pointed out the necessity of establishing any sound budgetary law and practice upon a legislative and executive organization which would secure official responsibility for public policies and public work.²

Having thus laid both the fact and the philosophic basis for a scientific budget system, the Bureau prepared a series of bills embracing the following features:

1. The appointment of the heads of the great administrative departments by the governor, although several officers, owing to political exigencies, are left elective;
2. The establishment of a governor's cabinet, composed of the executive heads of the administration under the governor as chief executive;
3. The organization of a governor's staff to serve as a research and investigating agency for the chief executive;

¹ The volume is entitled *Government of the State of New York; A Survey of Its Organization and Functions*. A limited number of copies may be secured from the Bureau of Municipal Research for \$1.00.

² Published under the title of "The Constitution and Government of the State of New York." May, 1915, issue of *Municipal Research*. Can be procured from the Bureau for \$1.00.

4. The initiation of the budget by the governor;
5. The right of the governor and his representatives to appear before the legislature to submit, explain and defend administrative measures;
6. In case of the refusal of the legislature to pass such measures, the right of the governor to dissolve the legislature and submit the issue to the voters;
7. A constitutional procedure for locating responsibility and for giving publicity to the discussion of all issues which arise, whether they pertain to administrative measures or the bills of members. In other words, to do away with invisible government by establishing visible government.

These measures, the representatives of the Bureau supported at the hearings before the Constitutional Convention committees and the principles thus laid down, were with some exceptions, elaborated and defended by a number of gentlemen eminently qualified to speak upon financial administration.³

It was not expected that the Convention would accept this somewhat radical program in its entirety, but Article V of the new state constitution, while omitting two or three fundamental matters, includes such a large part of it that it may be justly said to constitute the beginning of a new era in state fiscal administration, whether adopted or not. This article falls into five main divisions.

In the first place, it vests the initiation of certain parts of the budget in the governor. It expressly excludes from his control, however, the legislative and judicial appropriations. This much is clearly set forth but there is considerable difference of opinion as to the exact limits of the remainder of the state appropriations which are to be initiated by the governor. The opening paragraph of the article in question provides that the head of each department of the state government shall submit to the governor

itemized estimates of appropriations to meet the financial needs of such department, including a statement in detail of all moneys for which any general or special appropriation is desired at the ensuing session of the legislature, classified according to relative importance and in such form and with such explanation as the governor may require.

Whether this provision would cover all of the appropriations coming under the general jurisdiction of the several departments, including special and local appropriations as well as those for purely departmental purposes, is now a matter of hot debate. The friends

³ The records of these hearings have been published by the Bureau of Municipal Research in two volumes—"Budget Systems" and "State Administration," Nos. 62 and 63 of *Municipal Research*, to be secured from the Bureau at \$1.00 each.

of the proposition contend that under it the governor is responsible for covering in his budget substantially every item which does not specifically fall within the province of the legislative or judicial appropriation.

In the second place, Article V provides that the governor shall take the estimates (which are to be prepared for him by the departments on or before the fifteenth day of November in each year), hold public hearings thereon, revise them according to his judgment, and then submit to the legislature, on or before the first day of February, a budget containing a complete plan of proposed expenditures and estimated revenues. In addition, it must contain all

estimates so revised or certified and shall be accompanied by a bill or bills for all proposed appropriations and reappropriations, clearly itemized; it shall show the estimated revenues for the ensuing fiscal year and the estimated surplus or deficit of revenues at the end of the current fiscal year, together with the measures of taxation, if any, which the governor may propose for the increase of the revenues. It shall be accompanied by a statement of the current assets, liabilities, reserves and surplus or deficit of the state; statements of the debts and funds of the state; an estimate of its financial condition as of the beginning and end of the ensuing fiscal year; and a statement of revenues and expenditures for the two fiscal years next preceding said year, in form suitable for comparison. The governor may, before final action by the legislature thereon, amend or supplement the budget.

In the third place the measure provides for a system of interpellation to be elaborated by legislative action. The constitution stipulates that the governor and the heads of all departments shall have the right, and it shall be their duty, when requested by either house of the legislature, to appear and be heard in the matter of the budget and to answer all inquiries relevant thereto.

In the fourth place the legislature may not alter an appropriation bill submitted by the governor except to strike out or reduce items therein. When the bill has been passed by both houses, it becomes a law without further action by the governor, except that appropriations for the legislature and judiciary (which are included by the governor in his budget as a matter of form) are subject to his veto in the regular course.

In the fifth place, the power of initiating "further appropriations" is vested in the legislature, but it is provided that such appropriations shall not be considered until the governor's entire budget is disposed of. Moreover, it is stipulated that further appropriations shall be made by separate bills each for a single work

or object, and that such bills shall be specifically subject to the governor's veto.

In the sixth place, as a means of checking somewhat the time-honored practice of log rolling, section 21 of Article III dealing with the legislative power provides that:

No public moneys or property shall be appropriated for the construction or improvement of any building, bridge, highway, dike, canal, feeder, waterway or other work until plans and estimates of the cost of such work shall have been filed with the secretary of state by the superintendent of public works, together with a certificate by him as to whether or not in his judgment the general interests of the state then require that such improvement be made at state expense. This section shall not apply to the contributions of the state to the cost of eliminating grade crossings or to items in the budget for the construction of highways from the proceeds of bonds authorized under section 4 of Article IX of this constitution, or section 4 of former Article VII thereof as in force on the first day of January, 1910.

It is by no means clear what this provision implies and how far it will act as a means of control over the "pork barrel."

Naturally these provisions of the new constitution are hotly attacked, particularly by those who believe that every state officer (including probably the janitor of the state capitol) should be elected by popular vote. It is contended on their behalf that this measure makes the governor a czar. Other opponents of the constitution, however, take the ground that Article V will be futile because it gives to the legislature full freedom of initiation after the governor's budget has been acted upon. The representatives of this group hold that the governor can thus escape responsibility and that pork barrel politics will flourish as of old. Most of the friends of the provision in question freely admit that it does not go far enough and that it does not assure absolute responsibility, but they do hold that taken in connection with a reorganized state administration, the new article makes possible the establishment of a degree of responsible government hitherto unknown in American politics.